



**MEMORANDUM OF  
UNDERSTANDING BETWEEN  
THE VIRGIN ISLANDS DEPARTMENT OF DEPARTMENT OF PROPERTY  
AND PROCUREMENT  
&  
THE BUREAU OF CORRECTIONS**

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made this 16th day of July 2021, in the Territory of the Virgin Islands, by and between the Department of Property and Procurement and the Bureau of Corrections, two (2) Executive Branch Departments of the Government of the Virgin Islands of the United States, each a "Party" and collectively the "Parties".

**WITNESSETH:**

**Whereas**, the Virgin Islands Department of Property and Procurement ("DPP") is the executive branch department of the Government of the Virgin Islands responsible for leasing or otherwise providing office space and incidental facilities to other executive branch departments, agencies, and instrumentalities pursuant to 3 V.I.C. § 218 (a)(8), 3 V.I.C. § 70, 31, V.I.C. § 201, and 31 V.I.C. § 232(3); and

**Whereas**, the Bureau of Corrections ("BOC") is an executive branch department responsible for the security, custody, and rehabilitation of inmates pursuant to 3 V.I.C. § 373(b); and

**Whereas**, BOC occupies, uses or operates offices and incidental facilities from the Government-owned properties listed in Schedule "A", which is attached to and incorporated to this MOU by reference; and

**Whereas**, BOC's use and occupation of the Government-owned properties in Schedule "A", predates Hurricanes Irma and Maria in September 2017; and

**Whereas**, the premises identified in Schedule "A" sustained interior and exterior damages during the passage of Hurricanes Irma and/or Maria; and

**Whereas**, notwithstanding BOC's longstanding use and occupation of the Government-owned properties in Schedule "A", DPP and BOC do not have a written instrument to outline the responsibilities between the Parties relative to BOC's use and occupation of the premises in Schedule "A"; and

**Whereas**, the purpose of this MOU is to memorialize and clarify the roles and responsibilities of the parties dating back to September 1, 2017, with respect to any interior repairs for the spaces in Schedule "A" occupied by BOC.

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**NOW, THEREFORE**, in consideration of the mutual covenants herein contained, and intending to be legally bound by this written instrument, the parties hereto do covenant and agree as follows:

### **1. TERM AND EFFECTIVE DATE**

Upon the date of execution of the Commissioner of DPP, this MOU shall be effective for a period beginning September 1, 2017, and continuing in effect until modified by the Parties by a separate written instrument. In the event BOC vacates a single premise listed in Schedule "A", the Parties will amend this MOU so long as this MOU is in effect to update the listed properties in Schedule "A".

### **2. COSTS**

There shall be no exchange of funds between the Parties for the performance of tasks under this MOU. Each Party shall bear all costs associated with the fulfillment of its responsibilities under this MOU.

Any Public Assistance sums requested by BOC for the purposes of reimbursing disaster-related damage repairs to the exterior and interior of the facilities in Schedule "A" shall be the property of the BOC once awarded by the Federal Emergency Management Agency ("FEMA"). Similarly, repayment of any refunds due to FEMA for overages awarded and paid to BOC shall be the responsibility of BOC, and not DPP. It is the intent of both Parties to this MOU that any such Public Assistance sums awarded by FEMA for the purpose of reimbursing disaster-related damage repairs to the interior or exterior of the subject facility shall be utilized for that same purpose by BOC, unless expressly agreed to in writing by both Parties.

### **3. RESPONSIBILITIES/ TASKS/ TERMS & CONDITIONS**

- (a) The facilities listed in Schedule "A" are owned by the Government of the Virgin Islands and are occupied by BOC. The facilities sustained interior and exterior damages during the passage of Hurricanes Irma and/ or Maria in September 2017. BOC, an executive branch department of the Government of the Virgin Islands occupies the facility, through an informal assignment for occupancy and use. Under historic practice, BOC has been responsible for the maintenance and repairs of the structure, including storm-related damages. For the purposes of capturing FEMA Public Assistance ("PA") funding under the Stafford Act for reimbursement of repair costs to the damaged facility, and in order to establish BOC's legal responsibility for repairs to the facility at the time of disaster, FEMA has requested an MOU that establishes the roles and responsibilities of each party prior to, and at the time of the disaster.

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- (b) BOC and DPP are both considered to be eligible Applicants under FEMA's Public Assistance Program; and
- (c) FEMA's Public Assistance Program and Policy Guide, v.3.1, Section IV(B)(3), establishes the policy for determining Legal Responsibility as: "... FEMA evaluates whether the Applicant claiming the costs had legal responsibility for disaster-related restoration of the facility at the time of the incident based on ownership and the terms of any written agreements (such as for facilities under construction, leased facilities, and facilities owned by a Federal agency)."; and
- (d) The exterior and interior repairs to the spaces occupied by BOC will be completed as of the execution of this MOU; and
- (e) There currently exists no formalized agreement between BOC and DPP covering occupancy of the subject space, and BOC occupies the subject spaces under an Intragovernmental administrative agreement with DPP; and
- (f) The intent of this MOU, absent an existing formalized agreement to the contrary, is to clarify legal responsibility for making eligible exterior and interior repairs, claiming reimbursement and completing PA closeout under FEMA's Public Assistance program, over the period starting September 1, 2017, and continuing into the future while this MOU is in force between BOC and DPP.
- (g) Both parties subject to this MOU agree that the meaning of "Legal Responsibility for Repairs" in this MOU for space in the facilities listed in Schedule "A" shall be read to assign such legal responsibility for disaster related exterior and interior repairs to BOC.
- (h) All parties subject to this MOU further agree that through this MOU the legal responsibility for all actions to be taken in regard to obtaining reimbursement for disaster related exterior and interior repairs to the respective facility in Schedule "A", to include making the repairs, claiming reimbursement, completing closeout, and completing all administrative programmatic requirements (time extension requests, quarterly reporting, etc.), shall be the responsibility of BOC.

#### **4. DESIGNATED REPRESENTATIVE**

Each Party shall designate a representative to oversee its responsibilities under this MOU.



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**DPP designates:**

Mrs. Jozette J. Cantois, CPM  
Assistant Commissioner  
3274 Estate Richmond  
Christiansted, St. Croix Virgin Islands 00820  
(340) 773-1561 ext. 4433  
jozette.cantois@vi.gov

**BOC designates:**

Ms. Wynnie Testamark  
Director  
Bureau of Corrections  
1 Negro Bay, William D. Roebuck Park  
Frederiksted, VI 00840  
(340)773-6309  
wynnie.testamark@boc.vi.gov

**5. ASSIGNMENT**

Neither Party shall subcontract or assign any part of the services or responsibilities under this MOU.

**6. GOVERNING LAW**

This MOU shall be governed by the laws of the United States Virgin Islands and jurisdiction shall remain in the United States Virgin Islands.

**7. WAIVERS AND AMENDMENTS**

No waiver, modification or amendment of any term condition or provision of this MOU shall be valid or of any force or effect unless made in writing, signed by the Parties hereto or their duly authorized representatives, and specifying with particularity the nature and extent of such waiver, modification or amendment. Any such waiver, modification or amendment in any instance or instances shall in no event be construed to be a general waiver, modification or amendment of any of the terms, conditions or provisions of this MOU, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writing or writings.

**8. ENTIRE AGREEMENT**

This MOU constitutes the entire agreement of the Parties relating to the subject matter addressed in this Agreement. This MOU supersedes all prior communications, MOUs, or agreements between the Parties with respect to the subject matter addressed in this Agreement, whether written or oral.

**9. CONDITION PRECEDENT**

This MOU shall be subject to the availability and appropriation of funds and to the approval of the Commissioner of the Department of Property and Procurement.

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#### **10. TERMINATION**

Either party will have the right to terminate this MOU with or without cause within ten (10) days written notice to the other party specifying the date of termination.

#### **11. NON-DISCRIMINATION**

No person shall be excluded from participating in, be denied the proceeds of or be subject to discrimination in the performance of this MOU on account of race, creed, color, sex, religion, disability or national origin.

#### **12. NOTICE**

Any notice required to be given by the Terms of this MOU shall be deemed to have been given when the same is sent by certified mail, postage prepaid or personally delivered, addressed to the parties as follows:

ANTHONY D. THOMAS  
Commissioner  
Department of Property and Procurement  
8201 Sub Base, Suite 4  
St. Thomas, Virgin Islands 00802

WYNNIE TESTAMARK  
Director  
Bureau of Corrections  
1 Negro Bay  
William D. Roebuck Park  
Frederiksted, St. Croix VI 00840

#### **13. FACSIMILE, ELECTRONIC & DIGITAL SIGNATURES**

A facsimile, electronic or digital signature on this Contract shall be deemed an original and binding upon the Parties hereto.

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IN WITNESS WHEREOF, the parties have hereunto set their hands on the day and year first above written.

**WITNESSES**

**GOVERNMENT OF THE VIRGIN ISLANDS**

[Signature]

Wynne Testamark

Wynne Testamark, Director  
Bureau of Corrections

7/6/2021  
Date

[Signature]

Anthony D. Thomas

Anthony D. Thomas, Commissioner  
Department of Property and Procurement

7/16/2021  
Date

APPROVED AS TO LEGAL SUFFICIENCY  
DEPARTMENT OF JUSTICE BY:

Carol E. McDermott  
Assistant Attorney General

Date 7/15/2021

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## SCHEDULE "A"



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1. Bureau of Corrections  
North Building 1<sup>st</sup> Floor (15%) & 3<sup>rd</sup> Floor (100%)  
Alexander A. Farrelly Justice Complex  
5400 Veteran's Drive  
33A Norre Gade, Kings Quarter  
St. Thomas, Virgin Islands 00802
2. Alva A. Swan Correctional Annex  
No. 109 Subbase  
St. Thomas, Virgin Islands 00802

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